



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

Barbara C. Wagner  
*Chair*

M. Howard Beach

Janet P. Brooks

Liz Clark

Bruce R. Fernandez

Karyl Lee Hall

John M. Mandych

Richard Sherman

Norman VanCor

Karl J. Wagener  
*Executive Director*

December 30, 2010

The Honorable Dannel P. Malloy  
Governor-Elect of Connecticut  
State Capitol  
Hartford, CT 06106

Dear Governor-Elect Malloy:

As you probably know, the Council publishes the state's official report on the condition of Connecticut's environment early in the calendar year. We will complete the report for 2010 as soon as all essential data become available. Last year's report can be viewed at [www.ct.gov/ceq](http://www.ct.gov/ceq). The same statute that requires the Council to report on environmental conditions and trends (CGS Sec. 22a-12) instructs the Council to recommend legislation "for remedying the deficiencies of existing programs and activities." Early in January, we will submit this year's recommendations to you and the General Assembly.

In the meantime, as you prepare your budget and legislative initiatives in these extraordinarily challenging economic times, we understand that you are searching for savings and efficiencies in all programs while, ideally, enhancing the outcomes of those programs. With that in mind, the Council offers five suggestions that could be implemented fairly quickly, in some cases through administrative action, and would improve Connecticut's environment.

**1. Reduce the cost of CEPA compliance by 50 percent.** Under the Connecticut Environmental Policy Act (CEPA) as currently operating, state agencies may pay consultants hundreds of thousands of dollars to write Environmental Impact Evaluations (EIEs) of limited value to decision-makers or the public. In FY07-08, consultants were paid \$343,000 in state capital funds for **two** EIEs, far out of proportion to their value to the state. Agencies should be encouraged to prepare concise EIEs (30 to 40 pages), as is done in several other states. This can be implemented by having the DEP overhaul the 1978-era CEPA regulations to include a target length and scope for EIEs. In the case of public-private partnerships, PA 10-120 allows the private party to speed the process by paying the state agency for the cost of the EIE. More concise EIEs should save state agencies money and allow job-creating developments that do not have major negative environment impacts to begin construction.

**2. Make progress toward farmland and open-space preservation goals with no-cost "acquisitions."** You have stated your commitment to the farmland preservation program while acknowledging financial limitations ahead. One short-term action aimed at maintaining momentum would be to place conservation easements on excellent farmland currently owned by state agencies. Fortunately, much of the preparatory work is already done: the Farmland Preservation Advisory Board has identified and rated 1,300 acres of farmland owned by the Departments of Correction, Mental Health and Addiction Services and others that could be preserved at virtually no cost. Though owned by the state, those lands currently are not preserved in perpetuity.

Similarly, various state agencies own considerable acreage of woodland and watershed lands – even reservoirs – that are not permanently protected but would meet the DEP's criteria for acquisition. Through administrative action, the best of these lands could be identified and protected, thus moving the state closer to its preservation goals at almost no cost.

**3. Consolidate drinking water programs in one agency.** Responsibilities pertaining to the provision of drinking water to communities with contamination problems are divided between the DEP and DPH. Inefficiencies abound, and no single person or agency has authority to solve problems, many of which linger for decades. DEP Environmental Analysts who could be working full-time on brownfield remediation must attend to the continual needs of hundreds of households that have contaminated wells. The purpose of this consolidation would be to improve services to the public while increasing the speed of brownfield remediation.

**4. Allow the DEP and the private sector to move faster on Transfer Act projects.** Phasing out some of the DEP's roles in administering the Property Transfer Law would allow DEP's analysts and engineers to spend more time on high-priority remediation projects. However, the laws and regulations as constructed over time have become a complicated web, and the overhaul must be done thoughtfully. The immediate need, in the Council's view, is to establish the desired endpoint and to get started. The Council stands ready to work with any and all interested parties on this important matter.

**5. Give the public better access to public documents.** The DEP has built an in-house database for most of its permitting and enforcement data. When a member of the public wants an update or a document, a DEP staff person must look it up for the citizen and send it. An online searchable data base would serve the purposes of efficiency and transparency, and DEP analysts would have more time to work on their essential tasks.

We are aware that your transition team is working on some priority recommendations for improving the environment and the regulatory process. The list above is intended to complement that team's recommendations by providing ideas for short-



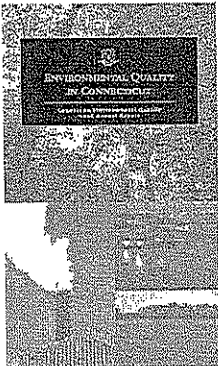
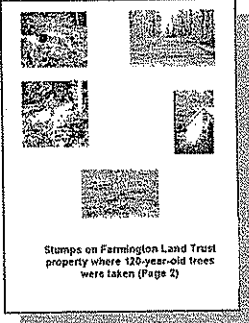
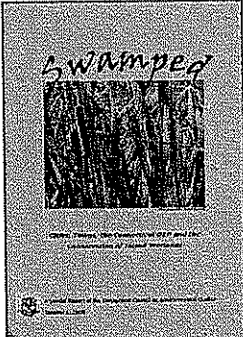
February 2011



# STATE OF CONNECTICUT COUNCIL ON ENVIRONMENTAL QUALITY

## Summary of Council Actions That Have Improved Connecticut, 2005 – 2011

Established in 1971 alongside the Department of Environmental Protection (DEP), the CEQ has published dozens of reports and resolved thousands of complaints. Many reports have resulted in major changes to state policy that continue to yield dividends years after publication. For example, 1997's *The New Race for Open Space* showed that Connecticut's land conservation program was moribund; it had no funding, no goals, and was entangled in red tape. The report was widely acknowledged as having helped move the state toward what is now a streamlined and effective land conservation program. Every year since, we report on the progress toward the goals the Governor and General Assembly established. The table below summarizes more recent examples.

REPORTS / ACTIONS	COUNCIL ACTION	OUTCOMES / IMPROVEMENTS
<p><b>"Environmental Quality in Connecticut"</b> <i>Every year since 1972</i></p> 	<p>Annual report on condition of Connecticut's environment. Comprehensive, accurate and unbiased. The only such report produced.</p> <p>Foundation of report is consistent set of 32 indicators, updated annually.</p> <p>Report focuses evenly on successes and failures.</p> <p>Report focuses on state as a whole, not just on DEP activities or jurisdiction. Includes agriculture, energy, public health, transportation and land use, and includes municipal performance.</p> <p>In 2009 the Council began to publish its required recommendations as a separate "Checklist of Recommended Legislation to Remedy Connecticut's Biggest Environmental Deficiencies"</p>	<p>This report is read widely and is considered the authoritative source for information on the condition of Connecticut's environment. It is cited frequently year-round by other agencies, the news media and researchers.</p> <p>The Council has completed a transition away from paper copies to an interactive web version that debuted in 2007. This has resulted in greater circulation and lower costs.</p> <p>The Council's reports have led to countless improvements in Connecticut's environmental laws and programs, in turn improving air quality, wetlands, parks and forests, releases of toxic materials such as mercury and MTBE, and compliance. Additional specific improvements are detailed below.</p>
<p><b>"Preserved But Not Protected"</b> 2005</p> 	<p>Prompted by citizen complaints of illegal felling of trees in protected conservation lands by trespassers, the CEQ conducted a year-long investigation of such problems.</p> <p>Encroachments were found to be widespread on state, municipal and land trust lands.</p> <p>The CEQ found that the DEP had no surveyors on staff and was unprepared to defend its parks and forests.</p> <p>Penalties for encroachments were found to be woefully inadequate.</p> <p>This CEQ Special Report led directly to legislation.</p>	<p>P.A. 06-89, An Act Concerning Encroachment on Open Space Land, comprehensively updated statutes pertaining to encroachments, and was put to use immediately in defense of parks, forests and preserves.</p> <p>The DEP was able to hire a surveying team and has begun to reclaim public land that had been taken over illegally by private parties.</p>
<p><b>"Swamped"</b> 2008</p> 	<p>Special 2008 CEQ Report found that many towns do not comply with statutory requirements for training and for reporting to the DEP.</p> <p>Report found through statistical analysis that training is highly effective, and that lack of training results in more wetlands lost.</p> <p>The same report found evidence that combined wetlands/zoning commissions are less protective of wetlands than separate wetlands commissions.</p> <p>The Council's two-year investigation grew out of a citizen complaint about illegal activity in wetlands.</p>	<p>Council's recommendations regarding training requirements and separation of commissions have been proposed in legislation.</p> <p>The CEQ sponsored a roundtable where representatives of numerous organizations and agencies outlined future improvements that could be achieved to make wetlands training more widespread and convenient for municipal wetlands agency members.</p>

# REPORTS / ACTIONS

# COUNCIL ACTION

# OUTCOMES / IMPROVEMENTS

## COMPLAINTS AND INVESTIGATIONS



The Council continually receives and investigates citizen complaints (CGS 22a-13). These complaints often lead to discovery of problems that have no simple solution because of inadequate laws or uncertain jurisdiction. Since its inception, the Council has received thousands of complaints and has spent much time resolving problems.

The Council also holds public forums in different parts of the state, and gathers the views and comments of citizens and municipal officials on deficiencies in state environmental programs.

The Council reviews and comments on Environmental Impact Evaluations published by other state agencies for proposed projects. As many of the EIEs are written by the DEP for DEP projects, the Council is the only environmental agency that gives them an objective review. In 2007, during such review, the Council discovered two state-funded projects that, combined, would subsidize commercial development on more than 100 acres of prime farmland on two active farms.

Please see above and below for more special reports that were prompted by citizen complaints.

Some examples of improvements to state laws or programs that resulted from complaints to the CEQ:

- The transfer of surplus state lands out of state ownership without benefit of environmental review led to P.A. 07-213, which requires public notice in the *Environmental Monitor* (see below) and, if warranted, a natural resource review before transfer. The first transfer of surplus land to the DEP as a result of this law was made final in December 2010.
- The DEP's trade of state park land to a private landowner without appraisals or public notice led to a Council recommendation for a new DEP policy, which the DEP adopted in 2008.
- A 2006 complaint about illegal tree clearing on DOT property along a river led to recommendations (adopted) for more efficient permitting procedures with more municipal input.
- Questions raised about the state's policy for protection of scenic areas led to conclusion that such a policy does not exist; topic of ongoing CEQ review.
- Public CEQ meetings on numerous problems at the University of Connecticut, including water supplies, the dehydrated Fenton River, and woodland clear-cutting led to changes in University procedures and infrastructure.
- In response to CEQ comments, The Office of Policy and Management has modified its procedures for reviewing state grants that would destroy prime farmland.

## Connecticut Environmental Policy Act



**ENVIRONMENTAL  
MONITOR**  
The official site for project information  
under the Connecticut Environmental  
Policy Act  
February 22, 2011

A 2002 CEQ Special Report became the basis of legislation that overhauled the Connecticut Environmental Policy Act (CEPA) for the first time since 1972.

In 2009, the CEQ launched an effort to modernize CEPA with the twin goals of 1) reducing the time and money agencies spend on environmental impact evaluations and 2) maximizing public notice.

P.A. 02-121 overhauled CEPA by adding early opportunities for public participation, eliminating Findings of No Significant Impact, and adopting related recommendations for streamlining. It also requires the CEQ to publish the *Environmental Monitor* online. The Monitor replaced the Connecticut Law Journal as the official place for state agencies to publish CEPA notices and provides the public with direct links to maps documents, and other information.

The ongoing CEPA modernization efforts will save state agencies considerable funds: up to several hundred thousand dollars in some years.

P.A. 10-120, adopted with the Council's support, will speed public-private partnerships.

## "Preserved and Forgotten"

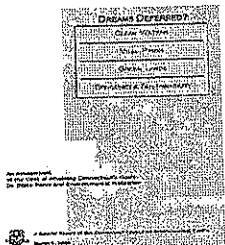
2009

The Council discovered that the State of Connecticut had purchased hundreds of acres of "scenic lands" decades ago, but their existence had been largely forgotten.

Agencies collaborated to locate these lands and map them in a digital format so that their locations are now available online.

## "Dreams Deferred"

2008



This Special Report assessed for the first time the total cost of attaining Connecticut's environmental goals.

Many goals, such as cleaner rivers and Long Island Sound, were found to be within reach, but some such as agricultural land preservation were found to be in danger of never being met.

Recommended funding state parks from the General Fund as a state service inherently different from the regulation and protection of air, water and wildlife.

Report has been used in numerous ways in budget planning and deliberations, and will be for many years.



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### TESTIMONY

TO: Committee on Appropriations  
Connecticut General Assembly

FROM: Barbara C. Wagner  
Chair

DATE: February 24, 2011

SUBJECT: Proposed Budget

Good evening. My name is Barbara Wagner. I am here tonight as the chair of the Council on Environmental Quality. I am accompanied by Council member Janet Brooks.

### The Proposal

The proposed budget eliminates funding for the Council on Environmental Quality (CEQ) and puts the Council within the proposed Department of Energy and Environmental Protection (DEEP). The implementing bill, Governor's Bill 6386, Section 36, provides that the Council would still exist with all of its mandatory duties and responsibilities. The CEQ already is within the DEP for administrative purposes only; this bill would eliminate that distinction and also eliminate the Council's authority to hire staff or expend other funds.

The Council spent considerable time discussing how the proposed consolidation might work, and asked me to speak tonight on the necessity of **independence** and **staff**. If consolidation is inevitable, it doesn't matter where we might end up administratively as long as the Council's functions and communications are independent of any Commissioner and are supported by qualified staff.

### Independence and Objectivity

The Council was created in 1971 (CGS Sections 22a-11 through 22a-13) alongside the Department of Environmental Protection to report objectively and without bias on the status of Connecticut's air, water, land, wildlife and other environmental

resources. Our widely-read annual reports are used as reliable references by other agencies (including the DEP), legislators and legislative staff, municipal officials, journalists, professors, and individual citizens.

**There is absolutely no duplication of work between the CEQ and the DEP.**

People sometimes assume that the DEP reports to you on the condition of our air, our rivers, our lobsters and shellfish beds, our drinking water, our wildlife and our land. It does not. If you know if Connecticut's air has gotten better or worse since you were first elected to the legislature, you probably know that from reading *Environmental Quality in Connecticut*, our annual reports on the condition of Connecticut's environment. **You cannot find that information anywhere else.**

The CEQ's reports are objective and reliable. You could ask the other agencies – DEP, Agriculture, Transportation, Public Health and others – for reports. Of course, you would not get all of the trends and analysis in one brief, readable report. More importantly, would you be confident that programmatic failures would receive equal billing with successes? Our reports are factual, and give equal attention to successes and failures. The Council must be independent of any other agency's editorial control to be of value to the citizens of Connecticut.

### **Staff**

The Council has, and would continue to have, substantial statutory responsibilities which are not duplicated by any other agencies. By itself, the annual report on the condition of Connecticut's environment consumes more than 600 hours of staff time, from collection of data to publication on our website. Our Council members contribute considerable knowledge and expertise at no expense but could not produce the annual report on their own time. If the CEQ were to rely on staff of another agency, would you be confident that our reports would be as objective and critical of failures as they now are?

### **ROI**

It costs each person in the state less than a NICKEL to have the Council on Environmental Quality at his or her service. Not a nickel a day, not a nickel per week or a nickel per month. The CEQ costs you 4.6 cents per YEAR.

Many of the Council's recommendations, when implemented, lead to very large savings in government expenditures. **Two examples:**

**CEPA:** You adopted many of our recommendations for amending the Connecticut Environmental Policy Act (CEPA). The DEP still has not amended the CEPA regulations, but when the DEP adopts the Council's recommendations, some agencies would be preparing fewer Environmental Impact Evaluations (EIEs). A single such EIE often costs more than

\$100,000 – usually more than the entire annual budget of the CEQ.  
Under our recommendations, agencies will be producing much shorter and more readable EIEs.

**Found land:** In 2007 you adopted one of our recommendations for improving the public notice and environmental review of surplus state lands before they are transferred out of state service. In December 2010, we were pleased to publish in the *Environmental Monitor* notice of the first fruit of that change: because of comments submitted by interested and knowledgeable residents, the DEP requested and received 12 acres of open space from another agency. So the State of Connecticut now is 12 acres closer to its open space goal, and at no cost. Prior to this law, the state would not have known of the land's natural resource values and would have let it slip away.

In the same vein, the Council made an interesting discovery in 2009: the DOT had bought hundreds of acres of "scenic lands" in the 1960s and 1970s, and these lands had been largely forgotten. We notified the governor, and she brought all of the relevant agencies to the table. Within weeks, all of these lands had been mapped in a digital format and are now available on the state's geographic information website for all to use. Again, hundreds of acres of open space were put in the ledger at no cost. There are many additional opportunities for "no-cost" acquisitions.

In December, the Council wrote to Governor-elect Malloy with five recommendations that would improve the environment and save money:

1. Reduce the cost of CEPA compliance by 50 percent.
2. Make progress toward farmland and open-space preservation goals with no-cost "acquisitions."
3. Consolidate drinking water programs in one agency.
4. Allow the DEP and the private sector to move faster on Transfer Act projects.
5. Give the public better access to public documents.

That letter is attached.

Also attached is a summary of recent CEQ accomplishments.

### **Who will lose services if the budget proposal is implemented?**

**1. Everyone.** No one, from the governor to the person on the street, will have an accurate assessment of the condition of our environment and trends (positive and negative) in our air, rivers, coastal waters, farmland, forests, energy efficiency, and wildlife. If we spend hundreds of millions of tax dollars per year on improving the

environment, don't we need accurate feedback on the success or failure of those investments? Furthermore, as most of our recommendations save the state money and lead to efficiencies, elimination of the Council would lead to higher state expenditures.

**2. Residents encountering environmental violations.** The Council has received and investigated hundreds of citizen complaints with an excellent success rate of solving seemingly intractable problems. In 2010, we spent considerable time investigating why many residents of Haddam have lived with contaminated groundwater for 30 years; we wrote a detailed letter to Governor Rell in July 2010 that communicated some of the problems and inefficiencies in the state's remediation and potable water programs, and offered several recommendations for consolidating programs. We held public forums in Haddam. Where would those citizens turn?

More recently, the Council received complaints about a potential violation of the Connecticut Environmental Policy Act (CEPA) by a state agency. The Council investigated, and just today sent a letter to OPM concluding that the agency in question needs to comply with CEPA and complete an environmental review of the proposed project. The agency in question is the DEP.

**3. The environment.** Too often, mention of the DEP stimulates intense discussion of permit delays, enforcement that is too lax or too strict, confusing regulations, and so on. The Council often investigates such things, but uniquely focuses on the actual outcomes as expressed in air quality, water quality and the status of our land. The CEQ's recommendations will improve the environment for all Connecticut residents.

Sometimes the Council is referred to as a watchdog agency, and the Council certainly has not been reluctant to criticize the failings of the DEP. But it would be a mistake, I believe, to characterize the CEQ as the DEP's watchdog. If anything, the CEQ is a watchdog of the state as a whole with regard to environmental performance. The CEQ's statutory responsibilities (CGS 22a-11 through 22a-13) do not mention the DEP's performance specifically. Much of what the Council reports on, from agricultural land to sprawl to human health and energy consumption, is well outside the DEP's jurisdiction.

Thank you. I look forward to discussing the CEQ's budget and mission with you.



term, cost-efficient solutions to several problems that might not be included among the highest-priority recommendations. I would welcome the opportunity to discuss any of this information with you or your staff. I can be reached at my law office at 860-657-4345. Our Executive Director, Karl Wagener, is always available at 860-424-4000 to answer questions and provide any additional information you might want.

Sincerely,

A handwritten signature in black ink, appearing to read "Bar C W", written in a cursive style.

Barbara C. Wagner  
Chair